

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

MDL No. 1456

Civil Action: 01-CV-12257-PBS

Judge Patti B. Saris

**CO-LEAD COUNSEL’S MOTION FOR ORDER AUTHORIZING
COMPENSATION TO CONSUMER AND THIRD-PARTY PAYOR CLASS
REPRESENTATIVES FROM FUND ESTABLISHED IN CONNECTION WITH
PLAINTIFFS’ SETTLEMENT WITH DEFENDANT GLAXOSMITHKLINE**

Pursuant to this Court’s instructions at the hearing on final approval of Plaintiffs’ settlement with Defendant GlaxoSmithKline (“GSK”), Co-Lead Counsel respectfully move this Court for an order authorizing compensation to Class 2 and 3 consumer and third-party payor class representatives in connection with Plaintiffs’ settlement with GSK. As grounds for the foregoing, Co-Lead Counsel states as follows:

1. At the July 19, 2007 hearing on final approval of Plaintiffs’ settlement with GSK, this Court indicated that, although it was not inclined to award incentive awards, it would consider providing compensation to class representatives based on the number of hours those class representatives spent assisting class counsel with the prosecution of this litigation. This Court therefore asked that Plaintiffs’ counsel submit declarations regarding the amount of time spent by each class representative.

2. Pursuant to this Court’s instructions, Co-Lead Counsel are attaching a declaration from its Class 2 representative, Sheet Metal Workers National Health Fund (Glenn Randle). *See* Ex. 1. They are likewise attaching declarations from TPP representatives of Class 3: Blue Cross Blue Shield of Massachusetts (Steven E. Skwara), United Food and Commercial Workers

Unions and Employers Midwest Health Benefits Fund (Daniel W. Ryan), Philadelphia Federation of Teachers Health and Welfare Fund (Arthur Steinberg), Man-U Service Contract Trust Fund (Stephen C. Richman), Teamsters Health and Welfare Fund of Philadelphia and Vicinity (William Einhorn), Carpenters and Millwrights of Houston and Vicinity Health and Welfare Fund (William A. Rhodes, Jr.), Health Care for All (Brian Rosman), and Pipefitters Local 537 Trust Funds (Charles Hannaford).¹ *See* Exs. 2 to 9. They are also attaching declarations from the consumer representatives of Class 3: Cheryl Barreca, Anna Choice, Donna Kendall, Connie Nelson, Joseph Miller, Andrea Palenica and Scott Tell.² *See* Exs. 10 to 16.

3. These declarations set forth, to the best of each class representative's ability, the amount of time each TPP and/or consumer expended in assisting class counsel with the prosecution of this case up to and including August 10, 2006, the date Plaintiffs sought preliminary approval of the GSK settlement. For the TPP class representatives, because there are five Track 1 Defendants, the total amount of time expended has been divided by five. For the consumer class representatives, their total time has been prorated based on the number of GSK drugs they were administered and paid for versus the number of drugs they were administered and paid for manufactured by other defendants. Then, pursuant to this Court's suggestion, that amount of hours has been multiplied by 100, to compensate each class representative \$100 per hour of time spent.

¹ Health Care for All was certified as a Class 3 representative for injunctive relief, but was inadvertently omitted in the proposed order granting preliminary approval of the GSK settlement. Twin Cities Bakery Workers Health and Welfare Fund will not be submitting a declaration.

² Cynthia Byrski's name was inadvertently included on the proposed order granting preliminary approval; however, because Plaintiffs withdrew her as a plaintiff she is not seeking any compensation.

4. These declarations set forth the following total number of hours attributable to GSK:

Declarant	Representative Of	Class	GSK Hours Claimed	Compensation Requested
Glenn Randle	Sheet Metal Workers National Health Fund	2	10.2 (Sheet Metals) 1.7 (claims administrator)	\$1,020 (Sheet Metals) \$170 (claims administrator)
Steven E. Skwara	Blue Cross Blue Shield of Massachusetts	3	28.6	\$2,860
Daniel C. Ryan	United Food and Commercial Workers Unions and Employers Midwest Health Benefits Fund	3	17.3	\$1,730
Arthur Steinberg	Philadelphia Federation of Teachers Health and Welfare Fund	3	12.6	\$1,260
Stephen C. Richman	Man-U Service Contract Trust Fund	3	8.35	\$835
William Einhorn	Teamsters Health and Welfare Fund of Philadelphia and Vicinity	3	25.4	\$2,540
William A. Rhodes, Jr.	Carpenters and Millwrights of Houston and Vicinity Health and Welfare Fund	3	13.0	\$1,300
Brian Rosman	Health Care For All	3	3.9	\$390
Charles Hannaford	Pipefitters Local 537 Trust Funds	3	8.2	\$820
Cheryl Barreca	Self	3	4.75	\$475
Anna Choice	Self	3	11.2	\$1,120
Donna Kendall	Self	3	6.0	\$600

Declarant	Representative Of	Class	GSK Hours Claimed	Compensation Requested
Connie Nelson	Self	3	6.7	\$670
Joseph Miller	Self	3	4.5	\$450
Andrea Palenica	Self	3	21.0	\$2,100
Scott Tell	Self	3	3.75	\$375 + \$20 (costs) = \$395
Total			187.15 hours	\$18,735

5. The declarations are, where possible, divided into paragraphs or lines in a chart that describe the nature of the tasks completed by each class representative. Therefore, should the Court decide that certain types of tasks are not compensable, the Court may easily subtract those hours from the total number of hours and recalculate awards accordingly.

6. These class representatives did not maintain written records of their time as class counsel have done. However, Co-Lead Counsel has reviewed the time claimed by each representative and believe the time claimed is reasonable in relation to the type, frequency and nature of the participation of each class representative. Should this Court require additional information to support these numbers, Co-Lead Counsel will provide it.

WHEREFORE Co-Lead Counsel respectfully request that this Court enter an order awarding the class representative compensation set forth in Paragraph 4 above, and all other relief that this Court deems just and appropriate.

DATED: July 27, 2007

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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of Plaintiffs' attorneys and, on July 27, 2007, caused *Co-Lead Counsel's Motion for Order Authorizing Compensation to Consumer and Third Party Payor Class Representatives From Fund Established in Connection With Plaintiffs' Settlement With Defendant GlaxoSmithKline* to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File & Serve.

/s/ Steve W. Berman

Steve W. Berman